

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSHUA DANIEL PAYNE,

Defendant.

CR 16-63-GF-BMM

ORDER

Defendant Joshua Daniel Payne (Payne) appeared before United States Magistrate Judge John Johnston on December 13, 2016, and entered a plea of guilty to being a Felon in Possession of a Firearm as charged in the Indictment. Judge Johnston entered Findings and Recommendations on December 13, 2016. (Doc. 18). Judge Johnston determined: (1) that Payne was fully competent and capable of entering an informed and voluntary plea; (2) that Payne was aware of the nature of the charge against him and the consequences of pleading guilty to the charge; (3) that Payne understood his constitutional rights, and the extent to which he was waving those rights by pleading guilty; (4) that Payne's plea of guilty was a knowing and voluntary plea supported by an independent basis in fact establishing each of the essential elements of the offense; and (5) that Payne had adequate time to discuss this matter with counsel. (Doc. 18 at 1-2). Judge Johnston

recommended that this Court accept Payne's plea of guilty to being a Felon in Possession of a Firearm as in the Indictment. (Doc. 18 at 2). Neither party filed objections to Judge Johnston's Findings and Recommendations.

Given that no objections were filed, the Court has reviewed Judge Johnston's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). The Court finds no error in Judge Johnston's Findings and Recommendations, and adopts them in full.

Accordingly, IT IS ORDERED:

Payne's Motion to Change Plea (Doc. 12) is GRANTED.

DATED this 5th day of January, 2017.



Brian Morris
United States District Court Judge